

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,	:	APPEAL NO. C-100637
	:	TRIAL NO. B-0903495
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
JULIAN STEELE,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

This case is before us on remand from the Ohio Supreme Court to address arguments that we had held moot in Steele’s direct appeal to this court. Specifically, we must address (1) whether defendant-appellant Julian Steele’s abduction convictions were supported by sufficient evidence, (2) whether Steele’s abduction convictions were against the manifest weight of the evidence, (3) whether the trial court abused its discretion in failing to declare a mistrial, and (4) whether trial counsel was ineffective. These arguments were raised in Steele’s first, second, third and fifth assignments of error, respectively.

Steele first challenges the sufficiency of the evidence in support of his abduction convictions under R.C. 2905.02(A)(1) and 2905.02(A)(2), respectively. The Ohio Supreme Court implicitly overruled Steele’s sufficiency argument in *State v. Steele*, 2013-Ohio-2470 (June 18, 2013). As it pertains to the R.C. 2905.02(A)(1)

charge, the court determined that Steele had taken R.M. into custody when he took the child from school, in handcuffs, and transported him to a police station in “the caged back seat of a police cruiser.” *Id.* at ¶ 4. The court further determined that “there is nothing in the record to support the proposition that Steele had anything even approaching probable cause to arrest when he took * * * [R.M.] out of school in handcuffs.” *Id.* at ¶ 35. Thus, we are compelled to conclude that there was sufficient evidence to support Steele’s conviction for abduction under R.C. 2905.02(A)(1). *See State v. Jenks* 61 Ohio St.3d 259, 574 N.E.2d 492, paragraph two of the syllabus.

In regard to the R.C. 2905.02(A)(2) charge, the Supreme Court determined that Steele had knowingly coerced a false confession from R.M and that Steele had used the confession to form the basis for a criminal complaint that culminated with R.M. being placed in a juvenile detention facility. And R.M. testified that he was fearful at the time. This was sufficient evidence to sustain a conviction for the R.C. 2905.02(A)(2) charge. *See id.* Based on the Supreme Court’s decision in *Steele*, we overrule Steele’s first assignment of error.

In his second assignment of error, Steele contends that his abduction convictions were against the manifest weight of the evidence. They were not. Steele attempted to present a version of events that, if believed, may have exonerated him. But there is no indication in the record that the jury lost its way in weighing the evidence presented so as to create a manifest miscarriage of justice. Steele’s second assignment of error is therefore overruled on the authority of *State v. Martin*, 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1983).

In his third assignment of error, Steele argues that the trial court abused its discretion when it failed to declare a mistrial. Steele asserts that his motion for a mistrial should have been granted because the state impeached its own witness,

Police Officer Calvin Mathis, during redirect examination in violation of Evid.R. 607. Steele also claims that a mistrial was warranted because the state introduced new matters during redirect examination and Steele did not have an opportunity for recross-examination on these topics.

Evid.R. 607 provides that “[t]he credibility of a witness may be attacked by any party except that the credibility of a witness may be attacked by the party calling the witness by means of a prior inconsistent statement only upon a showing of surprise and affirmative damage.” Here, on redirect, the state used a transcript of an interview that Mathis had given to an investigator as a means to refresh Mathis’s recollection. The content of the interview was not revealed to the jury, and Mathis was not impeached with this prior statement as contemplated by Evid.R. 607. Further, we find that the scope of redirect examination did not exceed the scope of Mathis’s cross-examination.

The trial court therefore did not abuse its discretion in failing to declare a mistrial. This assignment of error is overruled on the authority of *State v. Franklin*, 62 Ohio St.3d 118, 127, 580 N.E.2d 1 (1991), and *State v. Sage*, 31 Ohio St.3d 173, 182, 510 N.E.2d 343 (1987).

In his fifth assignment of error, Steele contends that his trial counsel was ineffective. Upon a review of the record, we hold that counsel’s performance was not deficient and that Steele was afforded reasonably competent representation. This assignment of error is overruled on the authority of *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d. 674 (1984), and *State v. Bradley*, 42 Ohio St.3d 136, 538 N.E.2d 373 (1989).

The trial court’s judgment is affirmed.

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Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., CUNNINGHAM and DINKELACKER, JJ.

To the clerk:

Enter upon the journal of the court on December 13, 2013
per order of the court _____.
Presiding Judge